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Security Council Committee established pursuant to resolution 751 (1992) concerning Somalia

Note verbale dated 19 February 2003 from the Permanent Mission of the United Kingdom of Great Britain and Northern Ireland to the United Nations addressed to the Chairman of the Committee

The Permanent Mission of the United Kingdom of Great Britain and Northern Ireland to the United Nations presents its compliments to the office of the Chairman of the Security Council Committee established pursuant to resolution 751 (1992) concerning Somalia and has the honour to transmit herewith a letter from the Foreign and Commonwealth Office (see annex) under which the necessary measures* to ensure compliance by the United Kingdom of Great Britain and Northern Ireland with the provisions of Security Council resolutions 733 (1992), 751 (1992), 1356 (2001) and 1407 (2002) concerning sanctions against Somalia have been adopted.

* The statutory instruments referred to in the communication are on file with the Secretariat, room S-3055, and are available for consultation.

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Annex to the note verbale dated 19 February 2003 from the Permanent Mission of the United Kingdom of Great Britain and Northern Ireland to the United Nations addressed to the Chairman of the Committee

1. Paragraph 8 of Security Council resolution 1407 (2002) of 3 May 2002 requested all States to report to the Committee about measures that were in place to ensure full and effective implementation of the arms embargo.

2. The requirements of the United Nations arms embargo on Somalia (Security Council resolution 1425 (2002)) were implemented into United Kingdom law in both the United Kingdom and the Overseas Territories under The Somalia (United Nations Sanctions) Order 2002 (SI/2002/2628) and The Somalia (United Nations Sanctions) (Overseas Territories) Order (SI/2002/2631).

3. The United Nations embargo has also been implemented under European law, under EC Common Position 02/960/CFSP (11/12/02) and Council Regulation 147/2003 (29/01/2003).

4. However, before the adoption of resolution 1425 (2002), the arms embargo was implemented in the United Kingdom by the United Nations Arms Embargoes (Liberia, Somalia and the former Yugoslavia) Order 1993 (SI/1993/1787, as amended by SI/1994/1637, 1996/1629, 1998/1501 and 2001/94). When resolution 1425 (2002) was adopted, paragraph 2 broadened the arms embargo to prevent "the direct or indirect supply to Somalia of technical advice, financial and other assistance, and training related to military activities". This was implemented in The Somalia (United Nations Sanctions) Order 2002 (SI/2002/2628) (hereinafter referred to as "the Order"), which replaces and repeals the 1993 Order, and contains all the provisions necessary to implement the arms embargo.

5. It is an offence to supply goods subject to the arms embargo, except under the authority of an export licence, granted by the Secretary of State for Foreign and Commonwealth Affairs of the United Kingdom.

6. Where a ship or aircraft (registered in the United Kingdom) or a vehicle within the United Kingdom is used for the carriage to Somalia of goods subject to the arms embargo by a British citizen, British Overseas Territories citizen, British Overseas Citizen, British subject, British National Overseas or a British protected person, except under the authority of a licence granted by the Secretary of State, the owner or master of the ship, the operator, commander or character of the aircraft, or the operator of the vehicle, as appropriate, is guilty of an offence unless he proves that he did not know, and had no reason to suppose, that the carriage of the goods in question was, or formed part of, carriage from any place outside Somalia to any destination therein. Any person who attempts to procure an export licence without the provision of all the necessary information, or by providing false information, is guilty of an offence.

7. HM Customs & Excise have the power to demand evidence of the destination of goods subject to the arms embargo, and if illegal activity is suspected, ships, aircraft and vehicles can be searched, using reasonable force if necessary. The master of a ship, charterer, operator and commander of an aircraft, and operator and driver of a vehicle may be required to provide information relating to the ship, aircraft or vehicle and their cargo. If, in the course of a search, false declarations are

made, or there is a lack of a reasonable excuse to make a declaration, then the person being questioned is guilty of an offence. Aircraft, vehicles and ships can be detained in the United Kingdom if necessary.

8. Security Council resolution 1425 (2002) has been implemented by providing that it is an offence for any person directly or indirectly to provide to any person in Somalia technical advice, financial or other assistance, or training related to military activities, unless he proves that he did not know and had no reason to suppose that the technical advice, financial or other assistance or training in question was to be provided to a person in Somalia.

9. There are various penalties for offences under the Order, up to a maximum prison sentence of seven years.

10. Export controls on goods covered by arms embargoes do not require new legislation to bring them into effect, since arms are already licensable. Thus, the fact that any licences are revoked and new ones not issued means that the export is prohibited and Customs can use their normal enforcement powers to prevent export and take action against those breaching or attempting to breach controls. The statutory instrument enables the United Kingdom authorities to take action against those breaching controls other than by straight export, e.g., by supply from a third country.